

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 titled Medical Dispute Resolution of a Medical Fee Dispute, and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The disputed dates of service 12-27-02 through 4-24-03 are untimely and ineligible for review per TWCC Rule 133.308(e)(1) which states that a request for medical dispute resolution shall be considered timely if it is received by the Commission no later than one year after the dates of service in dispute. This dispute was received on 4-29-04.

The IRO reviewed prolonged evaluation, therapeutic activities and exercises, analysis of clinical data, office visits, training in daily activities, ultrasound, and hot/cold packs on 5-7-03 to 5-29-03.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. The IRO concluded that the training in daily activities on 5-8-03 to 5-29-03 was medically necessary. The IRO agreed with the previous determination that the prolonged evaluation, therapeutic activities, therapeutic exercises, analysis of clinical data, office visits, ultrasound, and hot/cold packs on 5-7-03 to 5-29-03 were not medically necessary. Consequently, the requestor is not owed a refund of the paid IRO fee.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 7-26-04, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

Code 90842 billed for date of service 5-8-03 were denied as "A – preauthorization was required, but not requested for this service per TWCC Rule 134.600."

Rule 134.600 (h)(4) states, "The non-emergency health care requiring preauthorization includes all psychological testing and psychotherapy, repeat

interviews, and biofeedback; except when any service is part of a preauthorized or exempt rehabilitation program.”

There was no evidence that preauthorization was requested or received; therefore, no reimbursement recommended for code 90842.

Code 90889 billed for date of service 5-8-03 were denied as “A – preauthorization was required, but not requested for this service per TWCC Rule 134.600.”

- Per Rule 134.600(h) preauthorization is not required for preparation of psychiatric report; therefore, recommend reimbursement of \$30.00

ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable for dates of service 5-8-03 to 5-29-03 in this dispute.

This Order is hereby issued this 8th day of October 2004.

Dee Z. Torres
Medical Dispute Resolution Officer
Medical Review Division

June 28, 2004

Rosalinda Lopez
Texas Workers' Compensation Commission
Medical Dispute Resolution
Fax: (512) 804-4868

Re: Medical Dispute Resolution
MDR #: M5-04-2781-01
TWCC#:
Injured Employee:
DOI:
SS#:
IRO Certificate No.: 5055

Dear Ms. Lopez:

___ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, ___ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of ___ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in Chiropractic Medicine and is currently on the TWCC Approved Doctor List.

REVIEWER'S REPORT

Information Provided for Review:

TWCC-60, Table of Disputed Services, EOB's

Information provided by Requestor: office notes, physical therapy notes, physical therapy tests and radiology reports.

Information provided by Respondent: designated doctor exams.

Clinical History:

The patient is a 45-year-old female who, on ___, began experiencing pain in her right shoulder and elbow. The pain intensified during the day, and it became bad enough that she couldn't sleep that night. In the morning, she reported the incident, and was referred by her employer for evaluation and management. She returned three more times before changing to another treating doctor who then initiated chiropractic care.

Disputed Services:

Prolonged evaluation, therapeutic activities, therapeutic exercises, analysis of clinical data, office visits, training in daily activities, ultrasound, and hot/cold pack therapy during the period of 05/07/03 through 05/29/03.

Decision:

The reviewer partially agrees with the determination of the insurance carrier. Training in daily activities (97540) was medically necessary. All other treatment and services in dispute as stated above were not medically necessary in this case.

Rationale:

Given the need and dependence this right-hand dominant female would have on her right arm, training in activities of daily living was an appropriate procedure and was, therefore, medically necessary.

However, the diagnosis and documentation in this case did not support the medical necessity of either the prolonged evaluation and management services (99358) or the analysis of clinical data (99090).

In addition, upon review of the daily notes, the patient's condition not only failed to improve over the seven-month treatment period, it actually worsened with respect to range of motion and subjective complaints of pain. Specifically, the initial exam right shoulder range of motion stated that flexion was 160, extension was "normal," abduction was 130, adduction 45, internal rotation 90 and external rotation 90 (all in degrees). On date of service 02/18/2003 (the last date where actual numbered values were given for all ranges), flexion was decreased to 110, extension was 50, abduction had decreased to 100, adduction had decreased to 30, and both internal and external rotation had decreased to 45 (again, all in degrees). Also, on the initial visits, she rated her right shoulder pain 3 out of a possible 10; on 04/14/03, she rated it at 4 out of 10 but the "pain can rate as high as an 8." Moreover, by May of 2003, the patient still had not returned to work.

Therefore, this care did not meet the statutory standard under Texas Labor Code 408.021 because the treatment did not cure or relieve the effects of the injury, it did not promote recovery, and it did not enhance the injured worker's ability to return to work.

Sincerely,